

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: DENISON MUNICIPAL UTILITIES AND FARMLAND FOODS, INC.	AMENDED ADMINISTRATIVE CONSENT ORDER
NPDES Permit #2424001 Crawford County, Iowa	NO. 2013-WW-18-A1

TO: Mark Ramthun
General Manager
Denison Municipal Utilities
PO Box 518
Denison, IA 51442

Jeff Bottjen
General Manager
Smithfield Farmland Corp.
PO Box 490
Denison, IA 51442

I. SUMMARY

This amended administrative consent order (Amended Order) is entered into between Denison Municipal Utilities (DMU), Smithfield Farmland Corp., f/k/a Farmland Foods, Inc. (Smithfield Farmland) and the Iowa Department of Natural Resources (DNR) for the purpose of achieving and maintaining compliance with applicable requirements related to the operation of the DMU Wastewater Treatment Plant and sanitary sewer collection system. For the purposes of this amended administrative consent order, references to historical activities taking place prior to the merger of Smithfield Foods, Inc. and Farmland Foods, Inc. will use the name "Farmland Foods." Activities taking place or consummated after the merger will use the name "Smithfield Farmland."

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Dan P. Olson, Environmental Specialist Sr.
IDNR Field Office #4
1401 Sunnyside Lane
Atlantic, IA 50022
Phone: 712-243-1934

Relating to legal requirements:

Jon Tack, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, IA 50319
Phone: 515-281-8889

II. JURISDICTION

This Order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part, and Iowa Code section 455B.109 and

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567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. DMU is a municipal utility established pursuant to Iowa Code Chapter 388. DMU owns and operates a wastewater treatment facility pursuant to NPDES Permit # 2424001. The DMU wastewater treatment facility consists of a trickling filter plant and an activated sludge plant run in series and two 22 acre effluent holding ponds also operated in series. Commercial and residential wastewater from the City of Denison along with wastewater from APPA Fine Foods and Denison Foods is screened and combined at Lift Station No.1 and pumped to the headworks of the trickling filter plant. Effluent from the DMU Plant is sent to the Joint Lift Station. Pretreated wastewater from Farmland Foods and Tyson Food as well as the effluent from the DMU Plant is discharged to the Joint Lift Station which pumps this wastewater to the activated sludge plant. The DMU facility discharges to the Boyer River.

2. Smithfield Farmland owns and operates a swine packing plant located in Denison, Iowa. Smithfield Farmland provides pretreatment for its wastewater prior to discharge to the DMU wastewater collection and treatment system. Treatment equipment and facilities includes a rotary screen, grit chamber, DAFs, anaerobic lagoons, and final clarifiers. Smithfield Farmland has executed and is subject to an industrial treatment agreement (ITA) with DMU. The ITA was last renewed on October 22, 2014.

3. Since September of 2010, and through the date of the original Administrative Consent Order Farmland Foods had consistently violated certain of the terms of the ITA. Exceedances primarily involve Total Kjeldahl Nitrogen (TKN), biochemical oxygen demand (BOD), and Total Suspended Solids (TSS).

4. DMU had invoked the terms of the ITA and had issued notices of noncompliance and assessed surcharges against Farmland Foods for the violations of the treatment agreement.

5. Throughout the period of noncompliance, Farmland Foods has taken actions to attempt to address the situation and to notify DMU of those efforts. As of the date of the original December 5, 2013 Administrative Consent Order, Farmland Foods had reported having spent more than \$3.7 million dollars on corrective action projects and maintenance since 2010.

6. Despite the efforts of the parties, prior to the entry of the original Administrative Consent Order Farmland Foods continued to violate the ITA then in force and acknowledged in that Order that it would continue to have such violations without either changes to the pretreatment facilities of Farmland Foods, modifications of the DMU facility, a rerating of the DMU wastewater treatment plant by DNR, or a combination of these, to allow for

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additional wastewater treatment capacity which may subsequently be allocated to Farmland Foods and other industrial contributors through the modification of ITAs.

7. On December 3, 2012, Farmland Foods proposed to DNR a plan and schedule to return the facility to compliance with the ITA. Pursuant to that schedule, Farmland Foods retained Reid Engineering to design necessary improvements. Pursuant to the proposal of Farmland Foods, a project design was to be completed by May 1, 2013.

8. Farmland Foods informed the DNR of its willingness to install additional treatment at its facility which would have resulted in compliance with the ITA. On March 27, 2013, Farmland Foods contacted the DNR and reported that the corporation had committed up to \$5.5 million for treatment upgrades including biological treatment. Pursuant to that commitment, Farmland Foods commenced construction of a flow equalization tank.

9. On April 29, 2013, a meeting was held between DMU, Farmland Foods, and the DNR. At this meeting, DMU requested that Farmland Foods delay the installation of any significant additional treatment to allow time for DMU to study and propose what DMU wastewater treatment facility upgrades would accommodate the needs of DMU and several industrial users, including Farmland Foods. This request was memorialized by a letter from DMU to the DNR on May 1, 2013. The concern of DMU was that the installation of biological treatment at the Farmland Foods facility would result in a City wastewater stream which will not support future treatment for nutrient removal due to the lower ratio of organics (BOD) to nitrogen

10. DMU, DNR, and Smithfield Farmland agreed that facility improvements at the DMU wastewater treatment facility were a preferable long-term solution to accommodate the wastewater treatment needs of Farmland Foods and other industrial contributors. The parties further agreed that ongoing coordination was necessary to return all parties to compliance. By agreement of the parties, an Engineering Committee had been formed consisting of representatives of DMU and Smithfield Farmland. The Engineering Committee met routinely to coordinate activities and improvements and report progress to the DNR. The first meeting of the Engineering Committee was held on April 16, 2013.

11. By October 31, 2014, Smithfield Farmland had materially and substantially completed the treatment upgrades including biological treatment. These upgrades include:

- Trickling filter media replacement and related filter improvements, and later the removal of two above grade trickling filters due to structural integrity and poor performance;
- Wet well upgrades including diffused air additions;
- Lagoon cleanouts and flow distribution improvements;
- Air diffused flow equalization tank;
- Lift station upgrades, additional pump installations and routing changes;
- Dissolved air flotation system improvements and expansion, to include the addition of a third DAF;

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- The rental and use of a clarifier sludge centrifuge during high solids episodes early in the progression of the improvements, and the permanent installation of additional wastewater sludge centrifuge capacity;
- Removal and disposal of accumulated floating sludge from lagoons, several purchases and addition of anaerobic biological material for the lagoons ; Miscellaneous other improvements and repairs;
- Packaged Sanitary Wastewater Treatment System;
- Construction of a new final Clarifier of greater treatment capacity

12. On April 28, 2014, and subsequent to the entry of the Original Administrative Consent Order, Farmland Foods, Inc., completed its merger with Smithfield Packing Company Inc. and is now known as Smithfield Farmland Corp. (Smithfield Farmland). The term "Smithfield Farmland" shall refer to the current entity or its predecessors as the context requires.

13. On October 22, 2014, Smithfield Farmland and DMU entered into an Interim Industrial Treatment Agreement.

14. The October 22, 2014 Interim Treatment Agreement provided that Smithfield Farmland shall complete construction of the pretreatment improvements described in the December 5, 2013, Administrative Consent Order by October 31, 2014, and that Smithfield Farmland was expected to complete final testing and shall commission the pretreatment improvements within sixty (60) days thereafter. The ITA further provided that upon commissioning of the Smithfield Farmland pretreatment improvements that Smithfield Farmland shall collect final effluent discharge data through October 31, 2015 (the "Post Smithfield Farmland Construction Trial Period").

15. In the October 22, 2014 Interim Treatment Agreement, Smithfield Farmland and DMU agreed to negotiate new numerical limits of analytical control parameters following the conclusion of the Post Smithfield Farmland Construction Trial Period. Smithfield Farmland and DMU agreed to amend the ITA after the Post Smithfield Farmland Construction Trial Period by a written agreement between DMU and Smithfield Farmland to add the new analytical parameter limits. These revised limits are expected to remain in place until such time DMU has constructed and made available any additional treatment improvements as referenced in this Amended Administrative Consent Order, and the new Industrial Treatment Agreement is in place between Smithfield Farmland and DMU.

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IV. CONCLUSIONS OF LAW

The following conclusions of law are applicable in this case:

1. Pursuant to Iowa Code section 455B.173(2), the Iowa Environmental Protection Commission (Commission) shall establish, modify, or repeal water quality standards, pretreatment standards, and effluent standards in accordance with the provisions of Chapter 455B. Pursuant to Iowa Code section 455B.173(3), the Commission shall establish, modify, or repeal rules relating to the location, construction, operation and maintenance of wastewater disposal systems pursuant to section 455B.174, under which the director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to, or modification of any wastewater disposal system. Pursuant to these statutory provisions the DNR has adopted IAC Chapter 567-62.

2. Pursuant to 567 IAC 62.1(6), the discharge of wastewater into a publicly owned treatment works or a semipublic sewage disposal system in volumes or quantities in excess of those to which a significant industrial user is committed in an ITA is prohibited. Farmland Foods had consistently discharged to the City of Denison wastewater collection system in violation of this requirement. Smithfield Farmland is currently in compliance with the October 22, 2014 ITA.

3. NPDES Permit #2424001 incorporates or will incorporate the discharge limitations established by the Smithfield Farmland ITA.

4. The Original Administrative Consent Order established multiple violations of the previous ITA limits, primarily in relation to pretreatment limitations for TKN, BOD, and TSS.

V. ORDER

By the execution of this Amended Order, the DNR orders and DMU and Smithfield Farmland agree to the following:

1. DMU and Smithfield Farmland shall continue the Engineering Committee established on April 16, 2013 until the completion of the schedule set forth herein. The Engineering Committee shall consist of representatives of Smithfield Farmland and DMU who have the technical expertise and authorization to identify and assure operating procedures which are conducive to improved performance of both the DMU and Smithfield Farmland treatment systems and to identify and accomplish improvements to the pretreatment and treatment systems to ensure future compliance. The Engineering Committee shall also address the quantity of BOD, nitrogen and solids loading that DMU can accept from Smithfield Farmland following the Smithfield Farmland Construction Trial Period. Because DMU has stated that DMU's proposed plans and specifications for the new DMU permit may require higher or different wastewater parameters from Farmland after the Post Smithfield Farmland Construction Trial Period, and because DMU has asked that Smithfield Farmland delay the

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installation of any significant additional treatment, an interim agreement to avoid surcharges or other penalties is a reasonable option for DMU and Smithfield Farmland. Smithfield Farmland shall submit monthly status reports to the DNR by electronic means.

2. Within 60 days following the conclusion of the Post Smithfield Farmland Construction Trial Period as outlined in the October 22, 2014 ITA, DMU will schedule a meeting with DNR representatives to determine whether additional improvements to the DMU wastewater treatment facility are necessary to comply with the applicable requirements of the NPDES permit and applicable statutes, rules, and federal law.

3. If the DNR and DMU determine that additional improvements are required at the DMU wastewater treatment facility, DMU shall submit a proposed schedule to the DNR within 60 days of the meeting held pursuant to Paragraph #2, above. The schedule shall be incorporated into a 2nd Amendment to this Amended Order.

4. Farmland Foods paid an administrative penalty in the amount of \$10,000 within 30 days of the execution of the original Order.

5. With the execution of an Interim Industrial Treatment Agreement now in effect between DMU and Farmland Foods, DMU agreed to waive Notices of Violation (but not surcharges or penalties) for violations of the ITA limits; however, exceedances of the October 22, 2014, Interim ITA limits will be subject to the terms of the Interim ITA.

6. Beginning 60 days prior to the end of the Trial Period, DMU and Farmland Foods will attempt to agree on new interim discharge limits for Farmland Foods ("Post-Trial Period ITA") for the time period between the expiration of the Trial Period and either a determination that no additional improvements need to be made to the DMU facility or the completion of any additional improvements required of the DMU wastewater treatment facility as stated in paragraph 3 above. Pending the execution of a Post-Trial Period ITA or final treatment agreement between DMU and Farmland Foods, DMU agrees to waive Notices of Violation for violation of the ITA (but not surcharges or penalties).

7. If additional improvements are deemed necessary, then after the execution of a Post-Trial Period ITA between DMU and Farmland Foods, DMU agrees to waive Notices of Violation (but not surcharges or penalties) for violation of current ITA limits; however, exceedances of the ITA limits will be subject to the terms of the ITA.

8. If no additional improvements are required of the DMU wastewater facility following the end of the Trial Period, then DMU and Farmland Foods shall enter into a final treatment agreement.

9. DMU and Smithfield Farmland are each individually responsible for the actions that they are individually ordered to perform under the terms of this Amended Order.

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VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.
2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at IAC Chapter 567 - 10. Pursuant to this chapter, the DNR is authorized to issue an administrative order with penalties. The DNR may seek additional penalties for noncompliance with this Amended Order or to refer such noncompliance to the Iowa Attorney General for the initiation of a District Court action seeking such penalties and injunctive relief. An administrative penalty was previously assessed to Farmland Foods for past violations and has been paid in full. No further penalties are appropriate at this time.

VII. WAIVER OF APPEAL RIGHTS

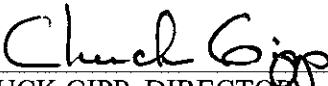
This Amended Order is entered into knowingly by and with the consent of DMU and Smithfield Farmland. For that reason, both parties individually waive any and all right to appeal this Amended Order or any part thereof.

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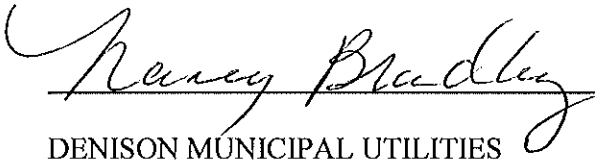
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VII. NONCOMPLIANCE


Failure to comply with this Order may result in referral to the Attorney General to obtain injunctive relief pursuant to Iowa Code section 455B.191. Compliance with section V. of this Order constitutes full satisfaction of all requirements pertaining to the violations described in section "IV. Conclusions of Law" of this Order.


CHUCK GIPP, DIRECTOR
Iowa Department of Natural Resources

Dated this 2nd day of
March, 2015


DENISON MUNICIPAL UTILITIES

Dated this 17th day of
February, 2015


SMITHFIELD FARMLAND, CORP.

Dated this 9 day of
Feb, 2015

NPDES #2424001; Field Office #4; Jon Tack; Eric Wiklund; I.B.2.b